

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-49837-2023

Date of Decision:20.10.2023

Dev Saini

...Petitioner

vs.

State of Haryana

...Respondent

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present : Mr. Satish Saini, Advocate
for the petitioner.

Ms. Sheenu Sura, Deputy Advocate General, Haryana.

Mr. Kanhiya Soni, Advocate
for the complainant.

N.S.Shekhawat J. (Oral)

1. The petitioner has filed the instant petition under Section 439 Cr.PC with a prayer to grant regular bail in case FIR No. 60 dated 21.04.2023 registered under Sections 323,34,506 of IPC and Section 326 IPC added later on Police Station Line Par Bahadurgarh. (Annexure P-1).

2. The FIR in the present case was registered on the basis of the statement made by Anil Kumar son of Sharwan Kumar. As per the complainant, at about 10:30 PM on 16.04.2023, he was called by one Amit @ Ganja and they had consumed liquor together. Thereafter, they had come to Lalchand Colony, whereby two other boys also came. One person was Dev Saini and the third one was known to Amit. The third boy started inflicting injuries to the complainant with the belt, which hit on the eye of the injured. As per the complainant, another boy, who was wearing bracelet (Kada), also hit the complainant with the bracelet (Kada) and due to this, the complainant had suffered serious injury

on his eye.

3. Learned counsel for the petitioner contends that FIR in the present case was initially registered against the petitioner and his co-accused under Sections 323,506,34 of IPC and later on, it was discovered that the complainant had lost eye sight and the offence under Section 326 IPC was added in the present case. He further contends that there is no specific attribution to the present petitioner in the FIR, however, during the course of investigation, one bracelet was allegedly recovered from him and it has been falsely shown that the petitioner had also caused injury to the injured on his left eye. He further contends that as per the case of the prosecution, even Mukul had allegedly caused injury on the left eye of the complainant with bracelet, so it is as to out of those two persons, who had caused the injury, which led to the addition of the offence under Section 326 IPC. Learned counsel further contends that he was arrested in the present case on 02.09.2023 and as a student, he deserves sympathetic consideration by this Court. He further contends to show his bona fide, that the petitioner will deposit a sum of Rs.50,000/- with Area Magistrate, which may be disbursed to the complainant.

4. On the other hand, learned State counsel has vehemently opposed the prayer made by learned counsel for the petitioner on the ground that due to the serious injury suffered by the injured/ complainant, he has lost his eye and has been disabled for rest of his life and he is not able to lead the normal life in future.

5. I have heard the learned counsel for the parties and perused the record.

6. It is clear that the petitioner was arrested in the present case on

02.09.2023. No doubt, the offence under Section 326 IPC is also attributed to Mukul, who has been admitted to bail by the Court of Additional Sessions Judge, Jhajjar, vide the order dated 07.08.2023 and the case of the petitioner is on better footing than the said co-accused. Apart from that, the investigation in the present case is almost complete and the further incarceration of the petitioner will be of no use in the present case. Apart from that, the case of the prosecution is primarily based on the testimonies of the official witnesses and the injured witness and there is no evidence to suggest that the petitioner is in a position to influence the said witnesses.

7. Without commenting on the merits of the case, the present petition is allowed. The petitioner is ordered to be released on bail pending trial on his furnishing bail bonds and surety to the satisfaction of the concerned trial Court/ Duty Magistrate/Chief Judicial Magistrate.

8. However, the petitioner is directed to deposit a sum of Rs.50,000/- at the time of furnishing the bail bonds with the Court concerned, which shall be disbursed to the complainant/injured against receipt and proper identification.

9. The above observations have been made only for the limited purpose of disposal of the bail application and the Trial Court shall decide the case, without getting influenced from the above observations.

(N.S.SHEKHAWAT)
JUDGE

20.10.2023
hitesh

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No